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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

James J. BANCROFT

Serial No.: 10/014,440

Confirmation No.: 3710

Filed: December 14, 2001

For: **MOUTHGUARD**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Docket No.: 2039282-5002.US

Group Art Unit: 3764

Examiner: Michael A. Brown

**REQUEST TO VACATE PRIOR ACTION
AND ISSUE NEW ACTION ON THE MERITS**

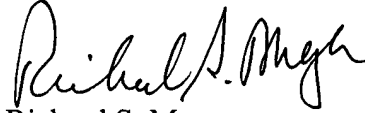
Sir:

On July 21, 2004, Applicant's undersigned representative had a telephone conference with the Examiner in which Applicant pointed out that the Office Action, mailed June 30, 2004, was incomplete, and therefore not in compliance with 37 C.F.R. § 1.104. More specifically, Applicant noted that there was no action taken on claims 32-35 and Applicant had not received initialed, PTO Form 1449's for the three (3) Information Disclosure Statements Applicant filed on July 1, 2002, February 4, 2002 and December 14, 2001. The Examiner indicated that he would issue a new Office Action addressing these items, withdraw the outstanding Office Action, dated June 30, 2004, and thereby reset the shortened statutory time period for response.

Applicant: James J. BANCROFT
Serial No.: 10/014,440

Applicant respectfully requests that the Examiner vacate the prior Office Action mailed June 30, 2004, and issue a new action resetting the full time period for response.

Respectfully submitted,



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Reg. No. 32,541

Date: August 19, 2004

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